

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEITH LAMONT JOHNSON,

Plaintiff,

-vs-

Case No.: 07-13951
HON.: SEAN F. COX

CITY OF DETROIT, et al

Defendants.

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PLAINTIFF'S MOTION TO COMPEL ENFORCEMENT OF SETTLEMENT

1. Settlement of this case against the City of Detroit and individual Detroit Defendants in the amount of \$35,000 was placed on the record on September 15, 2009. However, to date Defendants have not paid the settlement nor have they even sent Plaintiff the requested Release form.
2. The settlement was adopted by Resolution by the Detroit City Council on October 20, 2009 and the Resolution was approved by the Mayor on November 4, 2009. See the True Copy of the Resolution in Ex. 1.
3. On November 4, 2009 the undersigned faxed a letter to the Director of the City of Detroit Law Department asking that the anticipated Release form from the City be prepared by November 6. The undersigned indicated he would pick up have the Release, have it signed and delivered back to the City Law Department by the next business day after receipt and requested that the Settlement check be exchanged for the executed Release. See the Nov. 4 letter in Ex. 2.

4. To date the undersigned has not received a Release, the Settlement check or a response to the November 4 letter.

. For the reasons stated above and in the Brief, Plaintiff requests this court to enter judgment as of the date of filing this Motion in the amount of \$35,000; order that Defendant have available for pick-up in its office the next business day after the hearing on the motion the settlement check for \$35,000 and that within 3 business days thereafter, Defendant have a check available in its office for pick-up a check for post-judgment interest as calculated under Michigan law.

s/ Charles Chomet
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Dated: November 16, 2009

BRIEF

Concise Statement of Issue Presented

Where settlement was placed on the record on September 15, 2009, said settlement approved by the City Council on October 20 and by the Mayor on Nov. 4, 2009 and where neither a Release nor the settlement check has been sent to Plaintiff's counsel, should judgment be entered in the amount of the settlement?

Most Appropriate Authority

Aero Corp. v. Allied Witan Co., 531 F.2d 1368 (6th Cir. 1976)

Kukla v. National Distillers, 483 F.2d 619 (6th Cir. 1973)

Argument

Plaintiff adopts by reference the allegations made in the Motion.

"It is well established that courts retain the inherent power to enforce agreements entered into in settlement of litigation pending before them." *Aero Corp. v. Allied Witan Co.* 531 F.2d 1368, 1371 (6th Cir. 1976)

A settlement agreement can be enforced by the court even if the settlement was not reached in the presence of the court nor made in writing. The court has the power to enter a judgment to enforce a settlement agreement.

The power of a trial court to enter a judgment enforcing a settlement agreement has its basis in the policy favoring the settlement of disputes and the avoidance of costly and time-consuming litigation. (Citations omitted.) To effectuate this policy, the power of a trial court to enforce a settlement agreement has been upheld even where the agreement has not been arrived at in the presence of the court nor reduced to writing. *Kukla v. National Distillers*, 483 F.2d 619, 621 (6th Cir. 1973)

s/ Charles Chomet
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CERTIFICATE OF SERVICE

I certify that on Nov. 16, 2009, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to : Michael Hutchinson

s/ Charles Chomet, P39208
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